

MARA FLAMM V. SARNER & ASSOCIATES, P.C., ET AL.

**MOTION OF ATTORNEY DEFENDANTS TO DISMISS PLAINTIFF'S
COMPLAINT PURSUANT TO RULES 12(b)(1) AND 12(b)(6)**

DEFENDANTS' EXHIBIT 8

**January 22, 2002 Letter, Josh Sarner to Plaintiff
(cc: Robert Brand, Esquire)
With Rule to Show Cause and Petition**

SARNER & ASSOCIATES
A PROFESSIONAL CORPORATION OF ATTORNEYS AT LAW

LEONARD SARNER
JOSHUA SARNER*
PAUL M. LEWIS**

OF COUNSEL: EDWARD B. SHILS, Ph.D., S.J.D.

*ALSO ADMITTED IN NJ
** ALSO ADMITTED IN NY

11 PENN CENTER, 29TH FLOOR
PHILADELPHIA, PA 19103

TEL: (215) 496-1396
FAX: (215) 568-1044

13 TANNER STREET
HADDONFIELD, NJ 08033
TEL: (856) 616-9393
FAX: (856) 795-8221

January 22, 2002

**Via Certified Mail, Return Receipt Requested
and First Class Mail**

Ms. Mara Flamm
c/o Peirce College
1420 Pine Street
Philadelphia, PA 19102-4699

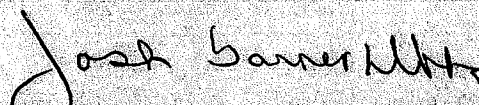
Ms. Mara Flamm
709 South Schell Street
Philadelphia, PA 19147

RE: Jodi H. Brown, M.D. vs. Mara Flamm
No. SC-01-02-20-1994

Dear Ms. Flamm:

Enclosed is the executed Rule to Show Cause and Petition in the above matter, setting the hearing date for February 21, 2002 at 1:30 p.m. in Courtroom 4-B, 4th Floor, 34 South 11th Street, Philadelphia.

Very truly yours,


JOSH SARNER

JS/lbh-a
Enclosure

cc: Robert P. Brand, Esquire
(Via Regular Mail)

J. Silberstein J.

SARNER & ASSOCIATES
By: Joshua Sarnar, Esquire
I.D. #54463
11 Penn Center, 29th Floor
Philadelphia, PA 19103
215-496-1396
Attorneys for Plaintiff
Jodi H. Brown, M.D.

IN THE PHILADELPHIA MUNICIPAL COURT

JODI H. BROWN, M.D.,	:	
	:	
Plaintiff,	:	No. SC-01-02-20-1994
	:	
v.	:	
	:	
MARA FLAMM,	:	
	:	
Defendant,	:	

ORDER

AND NOW, this ____ day of _____ 2002, Plaintiff Jodi H. Brown's Petition to Compel Oral Deposition in Aid of Execution of Defendant Mara Flamm is GRANTED.

Defendant Mara Flamm shall appear for an oral deposition within twenty (20) days of the date of this Order, and shall bring with her all documents specified in the original Notice of Deposition, dated October 19, 2001.

BY THE COURT:

J.

SARNER & ASSOCIATES
By: Joshua Sarner, Esquire
I.D. #54463
11 Penn Center, 29th Floor
Philadelphia, PA 19103
215-496-1396
Attorneys for Plaintiff
Jodi H. Brown, M.D.

IN THE PHILADELPHIA MUNICIPAL COURT

JODI H. BROWN, M.D.,

Plaintiff,

v.

MARA FLAMM,

Defendant,

:
:
:
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:
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No. SC-01-02-20-1994

**PETITION TO COMPEL DEPOSITION IN
AID OF EXECUTION OF DEFENDANT MARA FLAMM**

Plaintiff, Jodi H. Brown, through undersigned counsel, hereby petitions this Court for an Order compelling Defendant Mara Flamm to attend a deposition in aid of execution, and in support hereof avers as follows:

1. On or about February 20, 2001, this action was commenced by the filing of a Statement of Claim by Plaintiff Brown against Defendant Flamm.
2. On or about April 4, 2001, a default judgment was entered in favor of Brown and against Flamm in the amount of \$6,215 plus \$65 costs.
3. On October 19, 2001, Defendant Mara Flamm's Deposition in Aid of Execution was noticed for December 5, 2001. A copy of the Notice of Deposition is attached hereto as Exhibit "A."
4. Notice of this deposition was forwarded to Defendant Flamm as follows:

a. By hand delivery. A copy of the Return of Service, wherein service was accomplished, is attached hereto as Exhibit "B."

b. By regular and certified mail. The regular mail was not returned, and the certified mail was returned unclaimed. A true and correct copy of the transmittal letter and returned certified envelope is attached hereto as Exhibit "C."

5. On November 16, 2001, settlement negotiations with Flamm's husband and counsel, Robert P. Brand, Esquire, broke down. A copy of Mr. Brand's November 16, 2001 letter is attached as Exhibit "D."

6. On December 4, 2001, Mr. Brand advised counsel by telephone message that Flamm would not appear at the deposition. No reason was given for the failure to appear.

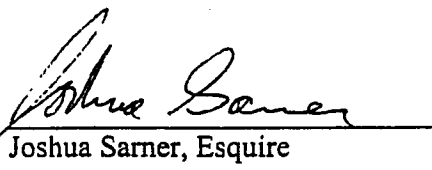
7. December 5, 2001, Flamm failed to appear for her oral deposition without justification or cause. A copy of the transcript of the deposition is attached hereto as Exhibit "E."

WHEREFORE, it is respectfully requested that this Honorable Court enter an Order compelling the appearance of Mara Flamm for her oral deposition and to bring with her all documents previously requested.

Respectfully submitted,

SARNER & ASSOCIATES

BY:



Joshua Sarnar, Esquire
Attorney I.D. No. 54463
11 Penn Center - 29th Floor
1835 Market Street
Philadelphia, PA 19103
Phone: 215-496-1396

Date: January 9, 2002

CERTIFICATE OF SERVICE

I, Joshua Sarnar, Esquire, do hereby certify that on this 9 day of ~~December~~^{January}, 2002, a true and correct copy of the foregoing Motion to Compel Deposition in Aid of Execution of Defendant Mara Flamm was served as set forth below:

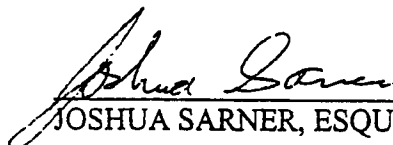
BY CERTIFIED MAIL. RETURN RECEIPT REQUESTED AND REGULAR MAIL

Mara Flamm
C/O Peirce College
1420 Pine Street
Philadelphia, PA 19102-4699

Mara Flamm
709 S. Schell Street
Philadelphia, PA 19147

BY REGULAR MAIL

Robert P. Brand, Esquire
Wilk & Brand, P.C.
1200 Walnut Street
5th Floor
Philadelphia, PA 19107


JOSHUA SARNER, ESQUIRE

DATED: 1/9/02

EXHIBIT "A"

FLAMM-1

12/5/01

am

SARNER & ASSOCIATES
By: Joshua Sarnar, Esquire
I.D. #54463
11 Penn Center, 29th Floor
Philadelphia, PA 19103
215-496-1396
Attorneys for Plaintiff

IN THE PHILADELPHIA MUNICIPAL COURT

JODI H. BROWN, M.D.,

Plaintiff,

No. SC-01-02-20-1994

v.

MARA FLAMM,

Defendant,

NOTICE OF TAKING DEPOSITION IN AID OF EXECUTION

To: Mara Flamm
C/O Peirce College
1420 Pine Street
Philadelphia, PA 19102-4699

Mara Flamm
709 S. Schell Street
Philadelphia, PA 19147

PLEASE TAKE NOTICE that, pursuant to Pennsylvania Rule of Civil Procedure 3117, the undersigned will take the deposition upon oral examination of Mara Flamm, before a notary public or other person authorized by law to administer oaths. The deposition will commence on December 5, 2001, at 10:00 a.m., and continue from day to day until completed, unless otherwise adjourned. The testimony will be taken at the offices of Sarnar & Associates, 11 Penn Center - 29th Floor, 1835 Market Street, Philadelphia, PA 19103, at which time and place Defendant is directed to appear and bring with him/her the following:

1. All of Defendant's tax returns and supporting schedules (federal, state and local) which were filed, either individually or jointly, for the calendar years 1998 to the present.
2. All passbooks, statements and deposit slips for the preceding twelve (12) months for any savings account, money market account, trust account, IRA accounts, 401(k) account, KEOGH plan, interest bearing account or similar account at any bank, savings institution, credit union or other financial institution held by Defendant, either individually or jointly.
3. All statements, canceled checks, deposit slips and checkbook registers for the preceding twelve (12) months for any checking account held in Defendant's name, either individually or jointly.
4. All stocks, bonds or other securities of any kind whatsoever owned by Defendant, individually or jointly, a list of all securities held by any other persons, brokerage houses or banks for Defendant in trust, by pledge or otherwise; and all statements, invoices and other documents from brokers or brokerage services in connection therewith.
5. Any and all insurance policies or riders thereto, for the years 1998 to the present, which cover the loss of personal property where the Defendant is a named beneficiary.
6. A list of all real estate owned by Defendant, or in which Defendant has or had any interest of any kind whatsoever, or which someone else held for Defendant in trust or otherwise, during the preceding twelve (12) months.
7. Any and all financial statements whether prepared by or for the Defendant during the preceding twenty-four (24) months.
8. Any application for a loan made by the Defendant, either individually or jointly, during the past twenty-four (24) months.

9. All deeds, indentures, bonds, mortgages, title insurance policies, public liability insurance policies, tax bills, leases, and all other documents evidencing any legal or equitable interest in real estate owned by Defendant, or in which he/she has or had within the last twenty four (24) months any interest of any kind whatsoever or which someone else holds for him/her in trust or otherwise.

10. Any and all certificates of deposit, promissory notes, security agreements, mortgages, mechanic's liens, or other evidences of indebtedness of any kind whatsoever owing to Defendant, individually or jointly, or held for Defendant in trust or otherwise.

11. A list of all motor vehicles, mobile homes, or boats owned by Defendant, either individually or jointly.

12. Any and all vehicle registration cards, titles, insurance policies, and all other documents evidencing any legal or equitable interest in any motor vehicles, mobile homes or boats owned by Defendant during the preceding twenty-four (24) months, or in which the Defendant has had any interest of any kind whatsoever or which someone else holds or has held for the Defendant in trust or otherwise.

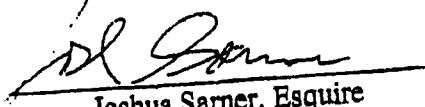
13. All documents reflecting the Defendant's right to receive royalties from any source.

14. The names and locations of all banks or other institutions in which the Defendant rents or rented in the last twenty-four (24) months, a safe deposit box, and the keys thereto.

15. All documents evidencing if the Defendant is a beneficiary of any trust.

SARNER & ASSOCIATES

BY:


Joshua Sarnar, Esquire
Attorney I.D. No. 54463
11 Penn Center - 29th Floor
1835 Market Street
Philadelphia, PA 19103
Phone: 215-496-1396
Fax: 215-568-1044

Dated: 10/19/01

EXHIBIT "B"

AFFIDAVIT OF SERVICE

PLAINTIFF(S) <u>Jodi H. Brown</u>	COURT TERM and NO. <u>SC-01-02-26-1994</u>	COUNTY <u>PHILA PA.</u>
DEFENDANT(S) <u>MARKA PLAMM, PIERCE JR. COLLEGE</u>	DATE PREPARED	SERVED BY <u>JOHN MATUSAVAGE</u>
SERVE AT <u>MS. MARKA PLAMM, PROFESSOR</u> <u>1420 PINE ST.</u> <u>PHILA PA 19106</u>	<input type="checkbox"/> Civil Action <input type="checkbox"/> Summons <input type="checkbox"/> Writ Of COMPANY CONTROL NUMBER	<input type="checkbox"/> Subpoena <input type="checkbox"/> Notice of Real Estate Sale <input type="checkbox"/> Other
SPECIAL INSTRUCTIONS		

Served and made known to MS MARKA PLAMM BY SUPERVISOR MS. PERKINS, B/F, 5'2, 110, BL. HTR, DR. SWEET
 on the 26th day of OCTOBER at 2:04 PM, at 1420 PINE ST. PHILA PA
 at 1420 PINE ST. PIERCE JR. COLLEGE PHILA PA, County of PHILA
 Commonwealth of Pennsylvania, in the manner described below:

- ☐ Defendant(s) personally served
☐ Adult family member with whom said Defendant(s) reside(s). Relationship is _____
☐ Adult in charge of Defendant's residence who refused to give name or relationship.
☒ Agent of person in charge of Defendants's office or usual place of business. MS. PERKINS MS. PLAMM'S SUPERVISOR
☐ Other _____ an officer of said Defendant company.

Description Age: 30 Height: 5'2 Weight: 110 Race: BLACK Sex: F
 On the 26th day of OCTOBER, 2002, at 1420 PINE ST. PHILA PA
 Defendant not found because: ☐ Moved ☐ Unknown ☐ No Answer ☐ Vacant ☐ Other

NAME OF SERVER

JOHN MATUSAVAGE being duly sworn according to law, deposes and says that
 he/she is process server herein names; and that the facts herein set forth above are
 true and correct to the best of their knowledge, information and belief.

Sheriff _____	Process Server/Competent Adult <u>John Matusavage</u>
Law Firm <u>SARNEY, JOSHUA, KSC</u>	ATTEST <u>PRO PROTHY</u>
Attorney's Name <u>1835 MARKET ST. (2ND FL)</u>	
Address <u>PHILA PA</u>	
Telephone # <u>496 1396</u>	DATE _____
Client # _____	

EXHIBIT "C"

SARNER & ASSOCIATES
A PROFESSIONAL CORPORATION OF ATTORNEYS AT LAW

LEONARD SARNER
JOSHUA SARNER*
PAUL M. LEWIS**

OF COUNSEL: EDWARD B. SHILS, PH.D., S.J.D.

*ALSO ADMITTED IN NJ
** ALSO ADMITTED IN NY

11 PENN CENTER, 29TH FLOOR
PHILADELPHIA, PA 19103

TEL: (215) 496-1396
FAX: (215) 568-1044

13 TANNER STREET
HADDONFIELD, NJ 08033
TEL: (856) 616-9393
FAX: (856) 795-8221

October 19, 2001

Via Certified Mail, RRR

Ms. Mara Flamm
709 South Schell Street
Philadelphia, PA 19147

RE: Jodi H. Brown, M.D. vs. Mara Flamm

Dear Ms. Flamm:

Enclosed please find a Notice of Taking Deposition in Aid of Execution in the above-referenced matter.

Sincerely,

JOSH SARNER

JS:lbh-a
Enclosure
cc: First Class Mail

Fold at line over top of envelope to
the right of the return address

CERTIFIED

Z 215 638 733

MAIL

LAW OFFICES
SARNER & ASSOCIATES
A PROFESSIONAL CORPORATION
11 PENN CENTER, 29TH FLOOR
PHILADELPHIA, PA 19103

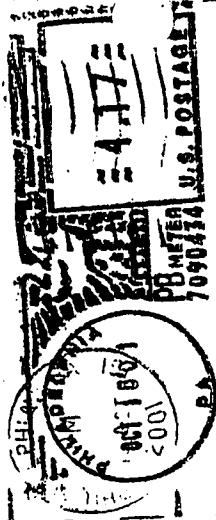
H. Sarnar

Via Certified Mail, RRR
Ms Mara Flamm
700 South Scheel Street
Philadelphia, PA 19147

RTS
RETURN TO SENDER

☐ INSUFFICIENT ADDRESS
☐ ATTEMPTED NOT KNOWN
☐ NO SUCH NUMBER/ STREET
☐ NOT DELIVERABLE AS ADDRESSED
☒ - UNABLE TO FORWARD

A
C
S



1914742035 19103/9999

EXHIBIT "D"

W&B
WILK & BRAND, P.C.
ATTORNEYS AT LAW

1200 WALNUT STREET, 5TH FLOOR • PHILADELPHIA, PA 19107 • TELEPHONE (215) 985-1500 • FAX (215) 546-5355

Ronald G. Wilk
Robert P. Brand
Laurence A. Mester
Michael D. Caramelo

MONTGOMERY COUNTY OFFICE
P.O. BOX 333
BLUE BELL, PENNSYLVANIA 19422
(215) 542-1613
FAX (215) 542-0956

NEW JERSEY OFFICE
4 GREENTREE CENTRE, SUITE 201
MARLTON, NEW JERSEY 08053
(856) 985-7525
FAX (856) 988-0657

November 16, 2001

Via Facsimile Transmission & U.S. Mail
(215) 568-1044

Josh Sarnier, Esquire
SARNER & ASSOCIATES
11 Penn Center, 29th Floor
Philadelphia, PA 19103

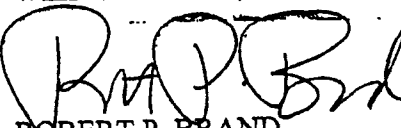
RE: Jodi H. Brown, M.D. v. Mara Flamm

Dear Mr. Sarnier:

Please be advised that the \$1200.00 verbal offer I made to you to settle the above-captioned matter is hereby withdrawn.

Very truly yours,

WILK & BRAND, P.C.


ROBERT P. BRAND

RPB/mdf

EXHIBIT "E"

ORIGINAL

1 IN THE PHILADELPHIA MUNICIPAL COURT,
2 PHILADELPHIA, PENNSYLVANIA
3 - - -

4 JODI H. BROWN, M.D.,
Plaintiff:

5 vs.

6 MARA FLAMM,
7 Defendant: NO. SC-0-02-20-1994
8 - - -

9
10 - - -
11 December 5, 2001
12 - - -

13 Statement for the record taken at the
14 Law Offices of Sarner & Associates,
15 Eleven Penn Center, 29th Floor, Philadelphia,
16 Pennsylvania, beginning at approximately
17 10:00 a.m. before Angela M. Mazzio,
18 Professional Court Reporter and Notary Public
19 in and for the Commonwealth of Pennsylvania.
20

21 - - -
22 SUMMIT COURT REPORTING, INC.
Professional Court Reporters
and Videographers
23 1500 Market Street, 12th Floor - East Tower
Philadelphia, Pennsylvania 19102
24 (215) 665-5633 * (609) 567-3315

1 APPEARANCES:

2
3 Law Offices of Sarner & Associates
4 BY: LEONARD SARNER, ESQUIRE
5 Eleven Penn Center, 29th Floor
6 1835 Market Street
7 Philadelphia, Pennsylvania 19103
8 (215) 496-1396

9
10 Representing the Plaintiff
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MR. SARNER: This proceeding
involves the deposition of Mara
Flamm in the case of Jodi H. Brown,
M.D. versus Mara Flamm
in the Philadelphia Municipal Court,
No. SC-01-02-20-1994.

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It is now 10 o'clock a.m. on
December 5, 2001 at the Law Offices
of Sarner & Associates, 1835 Market
Street, Eleven Penn Center,
29th Floor, Philadelphia,
Pennsylvania 19103.

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I am submitting to the court
reporter the Notice of Taking
Deposition in Aid of Execution
issued by the Law Firm of Sarner &
Associates by Joshua Sarner, one of
the partners, to Mara Flamm in care
of Pierce College, 1420 Pine Street,
Philadelphia, Pennsylvania
19102-4699. And also sent to her
home address at Mara Flamm,
709 S. Schell Street, Philadelphia,

1 Pennsylvania 19147. And I ask that
2 the court reporter place this as an
3 exhibit in this deposition hearing.

4 This law firm has been
5 advised by the husband of Mara Flamm
6 by telephone that the witness
7 scheduled for the deposition will
8 not appear at this hearing.

9 At 10 o'clock, at which time
10 the hearing was to proceed, she is
11 not present in the Law Offices of
12 Sarner & Associates nor in the
13 building, Eleven Penn Center, nor
14 downstairs in the lobby.

15 We will wait until
16 10:30 a.m. to determine if
17 Mrs. Flamm will appear as the
18 deposed witness. If not, the
19 hearing will be closed. It is now
20 five after ten on the scheduled date
21 and we will wait 25 minutes to 10:30
22 and resume the hearing to determine
23 whether she does appear.
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3 (Whereupon, a short recess
4 was taken.)
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9 MR. SARNER: We have
10 interrupted this proceeding to give
11 the witness to be deposed, Mara
12 Flamm, additional time to come to
13 the Law Offices of Sarner &
14 Associates, 29th Floor, 1835 Market
15 Street, Eleven Penn Center,
16 Philadelphia, Pennsylvania, 19103.
17

18 It is now 10:40 a.m. on
19 December 5, 2001 and Mrs. Flamm has
20 not appeared at the Offices of
21 Sarner & Associates, nor has she
22 been seen or present in the lobby of
23 the building. Accordingly, the
24 hearing is closed.

CERTIFICATION

I hereby certify that the proceedings, evidence, and objections noted are contained fully and accurately in the notes taken by me in the hearing of the above matter, and that this is a correct transcript of the same.

Angela M. Mazzio

Angela M. Mazzio

Professional Court Reporter
and Notary Public

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means unless under the direct control and/or supervision of the certifying reporter.)